

Claimant, on the other hand, requests the Appeals Board (Board) to affirm the preliminary hearing Order. Claimant contends he proved through his testimony and the contemporaneous medical treatment records admitted into the preliminary hearing record that he injured his right hand at work and the medical treatment he received for the right hand injury was the result of an injury at work and was not related to the non-work-related April 21, 2002, fight.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the preliminary hearing record and considering the parties' briefs, the Board finds the preliminary hearing Order should be affirmed.

Claimant admits he first injured his right hand on April 21, 2002, during a fight that took place outside the workplace. Claimant received treatment for this right hand injury at Miami County Medical Center's emergency department. The emergency physician diagnosed claimant with a fracture dislocation of the fifth metacarpal of the right hand and abrasions of the right metacarpophalangeal joints caused by a human bite. The abrasions were cleaned and the dislocated metacarpal was reduced with manual traction. A splint was applied to the dislocated fifth metacarpal and claimant was discharged to follow up with his personal or an orthopedic physician. Claimant testified he did not follow up with a physician because he was able to return to work and did not need any further treatment.

On April 26, 2002, claimant was working on the night shift for respondent as a press helper. Claimant testified he injured his right hand as he was unloading cylinders out of a printing press onto a metal cart when the hoist chain slipped and the cylinder came down on his right hand. Claimant described the portion of his hand that the cylinder landed on as the palm side of his hand toward the wrist as opposed to his fingers.

Claimant notified his supervisor of the right hand injury and his supervisor instructed claimant to go to the hospital for treatment. Claimant was seen at the Olathe Medical Center emergency department for a work accident with the description of the accident, "SMASHED W/CYLINDER". The emergency department report of the treating physician contained a history of a previous right hand injury but did not identify the injury from the fight.

Right hand x-rays were unremarkable for a fracture or a dislocation. Claimant's right hand was placed in a splint. Claimant was then discharged with a prescription for pain medication and to follow up with an orthopedic surgeon or a regular physician.

Claimant returned to respondent and respondent authorized claimant to follow up with another physician. Claimant saw orthopedic surgeon Brian C. Kindred, M.D., on May 1, 2002. Dr. Kindred obtained additional x-rays which showed dislocations of the carpal metacarpal joints of the fourth and fifth digits of the right hand.

The next day, May 2, 2002, claimant was placed under general anesthetic and Dr. Kindred performed a closed reduction of the fourth and fifth carpal metacarpal joints. In order to hold the reduction, Dr. Kindred also placed pins across the bases of the fourth and fifth metacarpals and into the carpal bones. Claimant testified that the area of the right hand injured during the fight was not the same area as he injured at work that required the reduction and pinning on May 2, 2002. Claimant described the location of this area as located toward the wrist as compared to the knuckles that were injured during the fight.

Claimant also testified he was able to return to work after the fight. But since his April 26, 2002, work-related right hand injury, Dr. Kindred took him off work until June 6, 2002, for the work-related right hand injury.

The Board finds claimant's testimony and the medical treatment records admitted into the preliminary hearing record proved that claimant injured his right hand at work on April 26, 2002. As a result of that work-related injury, claimant had to undergo medical treatment to reduce and pin the dislocated fourth and fifth carpal metacarpal joints. The Board finds that the greater weight of the evidence proves that the right hand injuries claimant received in the fight outside the workplace on April 21, 2002, are not the same injuries that claimant suffered at work on April 26, 2002, that required reduction and pinning and resulted in claimant being off work.

**WHEREFORE**, it is the finding, decision, and order of the Board that Steven J. Howard's July 3, 2002, preliminary hearing Order, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of September 2002.

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BOARD MEMBER

c: Michael R. Wallace, Attorney for Claimant  
Brian J. Fowler, Attorney for Respondent  
Steven J. Howard, Administrative Law Judge  
Director, Division of Workers Compensation